

# **CLINTON COUNTY LOCAL COURT RULES**

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## **LR12 - CR2.2-RULE 01**

### **FILING CRIMINAL CASES**

**1.10** As required by Criminal Rule 2.2 and subject to approval by the Indiana Supreme Court, Clinton Circuit Court and Clinton Superior Court adopt the following Local Rule by which Felony and Misdemeanor cases are assigned to each Court:

**1.20 General Provisions.** Except as provided at LR12-CR2.2-Rule 1.30, the first six hundred (600) misdemeanor cases filed each year shall be assigned to Superior Court. Thereafter, the remaining misdemeanor cases filed shall be assigned to Circuit Court. Except as provided in LR12-CR2.2-Rule 1.30, all criminal cases involving felonies or murder shall be assigned to a court on a monthly rotating basis according to the month in which the felony occurred. If the crime is alleged to have first occurred in an odd numbered month, the case shall be assigned to the Circuit Court. If the crime is alleged to have first occurred in an even numbered month, the case shall be assigned to Superior Court.

**1.30 Exceptions:**

- a. Cases involving crimes at Title 9 (traffic offenses) of the Indiana Code (I.C.) shall be assigned to Superior Court.
- b. Cases involving crimes at I.C. 35-42-4 (sex related crimes) shall be assigned to Circuit Court.
- c. Cases involving crimes at I.C. 35-43 (offenses against property) shall be assigned to Circuit Court.
- d. Cases involving I.C. 35-46-1-15.1 (Invasion of Privacy) shall be assigned to the Court that issued the Order of protection if such Order was issued by a Court in Clinton County.

**1.40 Application of Assignment Rules.** Where multiple offenses are filed, the most serious offense shall control the Court assignment. Where multiple offenses are filed, the date of the earliest offense shall control the Court assignment. Should the month of the offense be unknown, the case shall be assigned according to year of offense, odd-numbered cases to Circuit Court and even-numbered cases to Superior Court. Where the foregoing rules still do not define a court for assignment, a felony case shall be assigned to the Circuit Court and a misdemeanor case shall be assigned to Superior Court.

**1.50 Added Charges.** In the event additional related charges are filed against a defendant after a Court has been assigned, such additional charges shall be filed in the same Court where the case is pending.

**LR12 -CR 2.2-RULE 02**  
**REASSIGNMENT AND APPOINTMENT OF SPECIAL JUDGE IN**  
**CRIMINAL CASES, POST-CONVICTION**  
**PROCEEDINGS, INFRACTIONS AND ORDINANCE VIOLATIONS**

**2.10** As required by Rules 2.2, 12 and 13 of the Indiana Rules of Criminal Procedure and subject to approval by the Indiana Supreme Court, Clinton Circuit and Superior Courts adopt the following local rule concerning the reassignment of cases and also the appointment of special judges.

**2.20 Reassignment and Transfer of Cases by Agreement of the Courts.** A judge of either court may reassign a case to the judge of the other court for any reason including to balance caseload among the courts, alleviate congestion, avoid a potential conflict of interest, or avoid delay due to a judge's temporary absence, subject to the acceptance by the receiving judge. The judge receiving a request may:

- a. refuse reassignment;
- b. agree to sit as judge in the case for a temporary period;
- c. accept reassignment to the other court by entry of an order directing the clerk to assign a new cause number.

**2.30 Appointment of Special Judge.** Upon granting of a change of judge, disqualification or recusal of a judge, the case shall be reassigned to the other court, and the judge of the other court shall accept reassignment unless disqualified or ineligible for service in which case a special judge shall be selected on a rotating basis from an alternate appointment list maintained by each Court that shall include:

- a. Judge of the Boone Circuit Court,
- b. Judge of the Boone Superior Court No. 1;
- c. Judge of the Boone Superior Court No. 2;
- d. Judge of the Carroll Circuit Court;
- e. Judge of the Carroll Superior Court; and
- f. Judge of the Tipton Circuit Court.

**2.40 Appointment by Indiana Supreme Court.** In the event no judge is available for assignment or reassignment of a criminal case, such case shall be certified to the Indiana Supreme Court for appointment of a special judge. In the event the presiding judge in a criminal case concludes that the unique circumstances presented in such proceeding require appointment of a special judge, the presiding judge may request that the Indiana Supreme Court make such an appointment.

## **LR12-AR 1(E)-RULE 03 FILING IN CIVIL CASES**

### **3.10 General Provisions.**

All small claims cases, infraction cases and ordinance violations shall be filed in the Superior Court. All juvenile and paternity cases shall be filed in the Circuit Court. Unless governed separately by statute or Indiana Rules of Court, other civil cases shall be filed in the Court designated by the filing party, except as provided in Rule 3.20.

### **3.20 Exceptions.**

a. A petition to expunge or seal a Clinton County criminal conviction shall be filed in the court where the conviction order was issued; however, if the petitioner seeks to expunge more than one conviction, the petition shall be filed in the Court where the most recent conviction occurred.

b. A petition for issuance of a protective order shall be filed in the court having jurisdiction over a divorce or paternity case involving the same parties.

c. A petition for issuance of a protective order filed against a respondent who is under the age of eighteen (18) years shall be filed in the Clinton Circuit Court.

d. Any other petition for issuance of a protective order shall be filed in the Clinton Circuit Court in even-numbered months and in the Clinton Superior Court in odd-numbered months.

*(As added January 1, 2014)*

**LR12–TR79–RULE 04**  
**COORDINATED LOCAL RULE ON**  
**SELECTION OF SPECIAL JUDGE IN CIVIL CASES**

**3.10** Pursuant to Trial Rule 79(H) of the Indiana Rules of Trial Procedure, the Circuit and Superior Courts of Clinton County, in conjunction with the other Courts of Administrative District 12 (Boone County, Hamilton County, and Tipton County, Indiana), have adopted the following rule to establish procedures for the selection of special judges in civil cases:

**3.20** A change of judge or an order of disqualification in a small claims case, protection order case, infraction case, or juvenile delinquency case shall first be addressed through **LR12-TR79-Rule 04**.

**3.30** Within seven (7) days of the notation in the Chronological Case Summary of an order granting a change of judge or an order of disqualification, the parties pursuant to Trial Rule 79(D) may agree to any judge eligible under Trial Rule 79 (J).

**3.40** If a special judge is required to be selected under Trial Rule 79(H) then the special judge shall be selected as follows:

**3.40.10** If the case was originally filed in a court of record in Hamilton County, then the judge will be selected randomly from among the regular judges and full time judicial officers of Hamilton County subject to all existing local rules regarding case allocation and transfer.

**3.40.20** If the case was originally filed in a court of record in Boone, Clinton or Tipton County, then the judge will be selected on a rotating basis from among the regular judges of those counties subject to all local rules in each individual county regarding case allocation and transfer.

**3.40.30** If for any reason a judge cannot be selected by the above methods then the special judge shall be selected on a rotating basis from among all the regular judges of the District not already disqualified.

**3.50** A special judge selected under **3.40** must accept jurisdiction unless disqualified pursuant to *The Code of Judicial Conduct* or excused from service by the Indiana Supreme Court. The Administrator of Courts for Hamilton County shall maintain a list of the judges eligible for selection under 3.40.20 and a list of the judges eligible for selection under 3.40.30 and shall be contacted by the selecting court each time a judge must be selected from one of those lists. The Administrator of Courts shall provide the name of the next judge on the appropriate list upon a request from the selecting court and then strike the name of the judge selected from that list. The judge selected in this manner shall not be eligible to be selected again from the same list until all other judges have been selected from that list except as required to avoid certification to the Supreme Court.

**3.60** In the event that no judicial officer within Administrative District 12 is eligible to serve as special judge or the particular circumstance of the case warrants selection of a special judge by the Indiana Supreme Court, the judge of the Court in which the case is pending shall certify the matter to the Indiana Supreme Court for appointment of a special judge.

*(As amended April 1, 2013)*

**LR12-TR79-RULE 05**  
**SELECTION OF SPECIAL JUDGE IN**  
**SMALL CLAIMS CASES, PROTECTION ORDER CASES,**  
**INFRACTION CASES, AND JUVENILE DELINQUENCY CASES**

4.10 For the orderly and prompt administration of small claims cases, protection order cases, infraction cases, and juvenile delinquency cases, these rules shall govern in the event of an order granting a change of judge or an order of disqualification in a small claims case, a protection order case, an infraction case, or a juvenile delinquency case.

4.20 In the event of an order granting a change of judge or an order of disqualification in a small claims case, a protection order case, an infraction case, or a juvenile delinquency case, and no special judge agreement is submitted pursuant to Trial Rule 79(D), then the judge of the other court in Clinton County shall serve as judge.

4.30 In the event that the judge of the other court in Clinton County is unwilling or unable to serve as judge in the case, then selection of a special judge shall be pursuant to **LR12-TR79-Rule 03**, omitting from the list the judges in Clinton County.

*(As amended April 1, 2013)*

**LR12 –TR63 –RULE 06**  
**TEMPORARY JUDGES**

**5.10** Each regular sitting judge shall be empowered to act as a temporary judge of the other Court for all types of cases in the absence or unavailability of the regular sitting judge of the other Court.

**5.20** As needed, a regular sitting judge may appoint one or more pro tempore judges to serve in the event of his temporary unavailability and the unavailability of the other judge.

**5.30** Where a pro tempore judge or the other regular sitting judge sits as judge for a temporary period, the judge of the court where the case is pending retains jurisdiction and may resume sitting as judge for all proceedings without any formal order discontinuing the temporary judge's service.

**LR12 –CR00 –RULE 07**  
**AUTOMATIC DISCOVERY IN CRIMINAL CASES**

**6.10 General Provisions.**

a. Upon the entry of an appearance by an attorney for a defendant or a defendant's pro se written appearance, the State shall disclose and furnish all relevant items and information under this Rule to the defendant within thirty (30) days from the date of the appearance, subject to Constitutional limitations and such other limitation as the court may specifically provide by separate order, and the defense shall disclose and furnish all relevant items and information under this rule to the State within thirty (30) days after the State's disclosure.

b. No written motion is required, except:

- (1) To compel compliance under this Rule;
- (2) For additional discovery not covered under this Rule;
- (3) For a protective order seeking exemption from the provisions of this Rule; or
- (4) For an extension of time to comply with this Rule.

c. Although each side has a right to full discovery under the terms of this Rule, each side has a corresponding duty to seek out the discovery. Failure to do so may result in the waiver of the right to full discovery under this Rule.

d. All discovery shall be completed on or before the omnibus date unless otherwise extended for good cause shown.

e. The party seeking disclosure or a protective order under this Rule shall include in the party's motion or request a statement showing that the attorney making the motion or request has made a reasonable effort to reach agreement with opposing counsel concerning the matter set forth in the motion or request. In addition, this statement shall recite the date, time and place of this effort to reach agreement, whether the effort was made in person or by telephone and the names of all parties and attorneys participating therein. The court may deny a discovery motion filed by a party who has failed to comply with the requirements of this subsection.

**6.20 State Disclosures.**

a. The State shall disclose the following materials and information within its possession or control:

- (1) The names and last known addresses of persons whom the State intends to call as witnesses along with copies of their relevant written and/or recorded statements. However, the State may refrain from providing a witness' address under this Rule if the State in good faith believes the disclosure of the witness' address may jeopardize the safety of the witness and the witness' immediate family. If the State does not disclose the witness' address for the reason stated under this Rule, then the State shall make the witness available for deposition or interview by defense counsel upon reasonable notice. Should there be a dispute among the parties concerning the disclosure of a witness' address, counsel shall meet and make a reasonable effort to resolve this dispute before seeking intervention from the court. If an attorney for any party advises the court in writing that an opposing attorney has refused or delayed meeting and discussing the issue of witness address disclosure, the court may take such action as is appropriate;

(2) Any written, oral, or recorded statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgment of such statements;

(3) If applicable, the State shall provide a copy of those portions of any transcript of grand jury minutes, within the State's possession, which contain the testimony of persons whom the State intends to call as a witness at hearing or at trial. If such transcripts do not exist, the defendant may apply to the court for an order requiring their preparation;

(4) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons;

(5) Any books, papers, documents, photographs, or tangible objects that the State intends to use in the hearing or trial or which were obtained from or belong to the accused; and

(6) Any record of prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at any hearing or trial.

b. The State shall disclose to the defense any material or information within its possession or control that tends to negate the guilt of the accused as to the offense(s) charged or would tend to reduce the punishment for such offense(s).

c. The State may perform these disclosure obligations in any manner mutually agreeable to the State and the defense. Compliance may include a notification to the defense that material and information being disclosed may be inspected, obtained, tested, copied, or photographed at a specified reasonable time and place.

### **6.30 Defendant Disclosures.**

a. Defendant's counsel (or defendant where the defendant is proceeding pro se) shall furnish the State with the following material and information within his or her possession or control:

(1) The names and last known addresses of persons whom the defense intends to call as witnesses along with copies of their relevant written and/or recorded statements. However, the defense may refrain from providing a witness' address under this Rule if the defense in good faith believes the disclosure of the witness' address may jeopardize the safety of the witness and the witness' immediate family. If the defense does not disclose the witness' address for the reason stated under this Rule, then the defense shall make the witness available for deposition or interview by the State upon reasonable notice. Should there be a dispute among the parties concerning the disclosure of a witness' address, counsel shall meet and make a reasonable effort to resolve this dispute before seeking intervention from the court. If an attorney for any party advises the court in writing that an opposing attorney has refused or delayed meeting and discussing the issue of witness address disclosure, the court may take such action as is appropriate.

(2) Any books, papers, documents, photographs, or tangible objects the defense intends to use as evidence at any trial or hearing;



(3) Any medical, scientific, or expert witness evaluations, statements, reports, or testimony which may be used at any trial or hearing;

(4) Any defense, procedural or substantive, which the defendant intends to make at any hearing or trial; and

(5) Any record of prior criminal convictions known to the defendant or defense counsel that may be used for impeachment of the persons whom the defense intends to call at any hearing or trial.

b. After the formal charge has been filed, upon written motion by the State, the court may require the accused, among other things, to:

(1) Appear in a line-up;

(2) Speak for identification by witnesses to an offense;

(3) Be fingerprinted;

(4) Pose for photographs not involving re-enactment of a scene;

(5) Try on articles of clothing;

(6) Allow the taking of specimens of material from under his/her fingernails;

(7) Allow the taking of samples of his/her blood, hair and other materials of his/her body that involve no unreasonable intrusion;

(8) Provide a sample of his/her handwriting; and

(9) Submit to a reasonable physical or mental examination.

c. Whenever the personal appearance of the accused is required for the foregoing purposes, reasonable notice of the time and place of such appearance shall be given by the State to the accused and his/her counsel, who shall have the right to be present. Provision may be made for appearances for such purposes in an order admitting the accused to bail or providing for his/her release.

#### **6.40 Additions, Limitations and Protective Orders.**

**a. Discretionary Disclosures:** Upon written request and a showing of materiality, the court, in its discretion, may require additional disclosure not otherwise covered by this Rule.

**b. Denial of Disclosure:** The court may deny disclosure required by this rule upon a finding that there is substantial risk to any person of physical harm, intimidation, bribery, economic reprisals or unnecessary annoyance or embarrassment resulting from such disclosure which outweighs any usefulness of the disclosure.

**c. Matters not subject to Disclosure.**

(1) Work Product: Disclosure hereunder shall not be required of legal research or records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the State or members of its legal or investigative staff, or of defense counsel or his/her staff;

(2) Informants: Disclosure of an informant's identity shall not be required where there is a paramount interest of non-disclosure and where a failure to disclose will not infringe upon the Constitutional rights of the accused. However, disclosure shall not be denied hereunder of the identity of witnesses to be produced at trial or hearing; and

(3) Any matters protected by law.

**d. Protective Orders:** Either the State or defense may apply for a protective order for non-disclosure of discovery required hereunder or any additional requested discovery.

**6.50 Duty of Supplemental Responses.** The State and the defense are under a continuing duty to supplement the discovery disclosures required hereunder as required upon the acquisition of additional information or materials otherwise required to be disclosed hereunder. Supplementation of disclosures shall be made within a reasonable time after the obligation to supplement arises.

**6.60 Sanctions Upon Failure to Comply.** Failure of a party to comply with either the disclosure requirements or the time limits required by this Rule may result in the imposition of sanctions against the noncompliant party. These sanctions may include, but are not limited to, the exclusion of evidence at a trial or hearing.

## **LR12-AR15-RULE 08 COURT REPORTER SERVICES**

**7.10 General Provisions.** The undersigned courts comprise all of the courts of record of Clinton County, Indiana and hereby adopt the following local rule by which court reporter services shall be governed.

**7.20 Definitions.** The following definitions shall apply under this local rule:

a. *A Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

b. *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.

c. *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.

d. *Page* means that page unit of transcript which results when a recording is transcribed in the form required by Indiana a Rule of Appellate Procedure 7.2.

e. *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

f. *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.

g. *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.

h. *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.

i. *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e., Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

j. *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Clinton County.

k. *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

l. *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

m. *Private transcript* means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

**7.30 Salaries and Per Page Fees.** Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. Salary does not include transcription fees. The supervising court shall enter into a written agreement with the court reporters which outline the manner in which the court reporter is to be compensated for gap and overtime hours by monetary pay or compensatory time off. Should court reporters work over 40 hours in one week on regular Court business, they should be paid time and a half or receive one and one-half times overtime worked. The Council has requested a 32 hour work week.

**7.40** The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be as follows:

- a. \$4.50 generally
- b. \$5.50 for transcription of older cases. Older cases are those in which the hearing was held in excess of four (4) years prior to the date the transcription is requested.
- c. \$6.50 for expedited. Expedited transcripts are those which are requested to be completed within five (5) days.

**7.50** The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$4.50; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

**7.60** The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$4.50.

**7.70** Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

**7.80 Private Practice.** If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing a deposition transcript, and the court reporter desires to utilize the court's equipment and work space, and the court agrees to the use of the court equipment for such purpose:

- a. The court reporter shall provide his/her own supplies; and
- b. Court Reporter shall maintain records regarding use.
- c. Work shall be conducted outside of regular working hours if a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript.

*(As amended January 1, 2014)*